

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

PAIGE LOUIS BENNER, §
§
VS. § CIVIL ACTION NO. 4:07-CV-326-Y
§
NATHANIEL QUARTERMAN, Director, §
T.D.C.J., Correctional §
Institutions Division, §
Respondent. §

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this action brought by petitioner Paige Louis Benner under 28 U.S.C. § 2254, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on July 17, 2008; and
3. The petitioner's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on August 7, 2008.
4. The respondent's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on August 7, 2008.

The Court, after **de novo** review, concludes that petitioner Benner's objections must be overruled; that the Respondent's objections must be overruled, except the objection that Benner's claim that the trial court erred by improperly admitting evidence of an extraneous offense is procedurally barred, which is sustained; and that the magistrate judge's findings and conclusions should be adopted, except to the extent that Benner's claim that the trial court erred by improperly admitting evidence of an extraneous offense (Magistrate Judge's Statement of Issues (1)(a)) is dismissed with prejudice as unexhausted and procedurally barred from this Court's review.

Therefore, the findings, conclusions, and recommendation of the magistrate judge are ADOPTED, except as modified herein.

Petitioner Paige Louis Benner's petition for writ of habeas corpus is DENIED.

SIGNED August 25, 2008.

Terry R. Means
TERRY R. MEANS
UNITED STATES DISTRICT JUDGE